

ORDINANCE NO. 09-71

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW 29 PARKING SPACES, WHERE AT LEAST 41 ARE REQUIRED CONTRA TO HIALEAH CODE §98-2189(9), ON PROPERTY ZONED P (PARKING DISTRICT). **PROPERTY LOCATED AT 1395 EAST 4 AVENUE, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of August 12, 2009, recommended approval of this ordinance; and

WHEREAS, this variance is considered in light of a prior variance to rezone and grant a Conditional Use Permit for the expansion of a daycare facility and operation of a K-5 school on the Property with a maximum enrollment capacity of 220 children at the daycare and 325 students at the K-5 school;

WHEREAS, in order to provide for the continued safe and orderly flow of pedestrian and vehicular traffic in to and out of the daycare and school during the hours of admission to and dismissal from class, and prevent and avoid unreasonable disruption of the rightful vehicular and pedestrian utilization of the public streets, sidewalks, Petitioner proffers a declaration of restrictive covenants providing that the day care facility and school shall provide onsite traffic control personnel at peak traffic hours to facilitate the proper flow of traffic to and from the school and the day care facility and in connection with the internal circulation of motor vehicles and buses, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The below-described property is hereby granted a variance permit to allow 29 parking spaces, where at least 41 are required, contra to Hialeah Code §98-2189(9), which provides in pertinent part: "One parking space for each 200 square feet of gross floor area of the floor with the greatest area and one parking space for each 400

square feet of all other floors.”, on property zoned P (Parking District). The property is located at 1395 East 4 Avenue, Hialeah, Miami-Dade County, Florida and legally described as follows:

LOTS 1, 2, 3, 4, 5, AND 6, IN BLOCK 4-E, OF “EIGHTH ADDITION TO THE TOWN OF HIALEAH”, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, PAGE 11, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Severability Clause.


If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 5: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

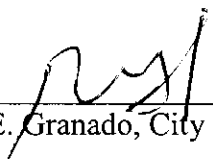
PASSED and ADOPTED this 8th day of September, 2009.

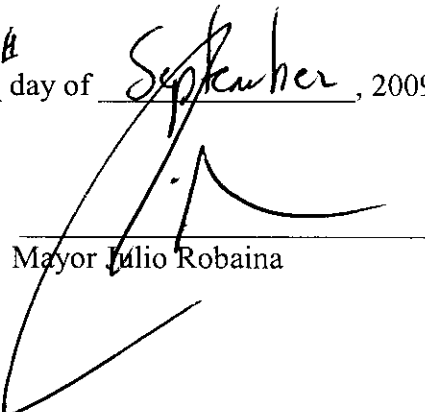
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Carlos Hernandez
Council President

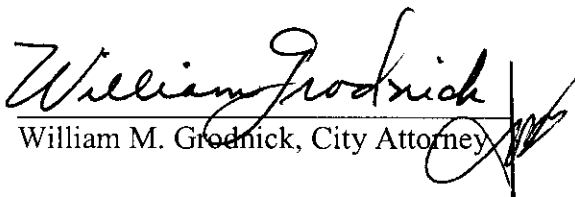
Attest:

Approved on this 10th day of September, 2009.


Rafael E. Granado, City Clerk


Mayor Julio Robaina

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

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Ordinance was adopted by a 6-0 vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Garcia-Martinez, Hernandez, Yedra voting "Yes" and Councilmember Gonzalez absent.